

INTRODUCED _____
PUBLIC HEARING _____
COUNCIL ACTION _____
EXEC. ACTION _____
EFFECTIVE DATE _____

**County Council of
Howard County, Maryland**

2008 Legislative Session

Legislative Day No. 5

Bill No. 32-2008

Introduced by: The Chairperson at the request of the County Executive

AN ACT to authorize and empower Howard County, Maryland to borrow, on its full faith and credit, up to \$63,000,000 from the Maryland Water Quality Financing Administration (the "Administration"), and to issue and sell its installment bonds to the Administration, the proceeds thereof to be used to pay costs of Capital Project No. S-6214 (Sewer Contingency Fund), as described in the County's 2009 Capital Budget, and to pay all related costs; and to levy taxes upon the assessable property within the County sufficient, together with benefit assessments, ad valorem taxes levied upon assessable property in the Metropolitan District and other available funds, to pay the debt service on such bonds; authorizing the County to enter into one or more Loan Agreements with the Administration to effect and further evidence such borrowing; and making certain findings and determinations.

Introduced and read first time _____, 2008. Ordered posted and hearing scheduled.

By order _____
Sheila M. Tolliver, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on _____, 2008 and concluded on _____, 2008.

By order _____
Sheila M. Tolliver,
Administrator

This Bill was read the third time on _____, 2008 and Passed, Passed with amendments _____, Failed _____.

By order _____
Sheila M. Tolliver,
Administrator

Sealed with the County Seal and presented to the County Executive for approval this ____ day of _____, 2008 at _____ a.m./p.m.

By order _____
Sheila M. Tolliver,
Administrator

Approved by the County Executive _____, 2008

Ken Ulman, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN ALL CAPITALS indicates additions to existing law; ~~Strike-out~~ indicates material deleted by amendment; Underlining indicates material added by amendment.

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Pursuant to and in accordance with the Maryland Water Quality Financing Administration Act, Sections 9-1601 to 9-1622 of the Environment Article, Annotated Code of Maryland, as amended (the "MWQFA Act"), the Maryland Water Quality Financing Administration (the "Administration") is authorized to issue its bonds to provide moneys for deposit into the Maryland Water Quality Revolving Loan Fund (the "Fund") to be used to make loans to "local governments" for the purpose of financing all or a portion of the cost of a "wastewater facility" (both as defined in the MWQFA Act).

"9-1606 Loans.

(b) *Issue and sale of loan obligations by borrower.* Notwithstanding any other provision of public general or public local law, charter, or ordinance, a borrower may issue and sell loan obligations to the Administration:

(1) At private sale, without public bidding;

1 (2) Without regard to any limitations on the
2 denomination of such obligations; and
3

4 (3) At any interest rate or cost or at any price that the
5 borrower considers necessary or desirable.
6

7 (c) *Payment of fees or charges by borrower.* A
8 borrower may pay any fees or charges necessary to enable the
9 Administration to sell its bonds, including any fees for the
10 insurance of its loan obligations or bonds of the Administration, or
11 to provide any other guarantee, credit enhancement, or additional
12 security for any such loan obligations or bonds.
13

14 (d) *Pledge of moneys borrower is entitled to receive*
15 *from State.* Notwithstanding any other provision of public general
16 or public local law, charter, or ordinance, a borrower may agree
17 with the Administration to pledge any moneys that the borrower is
18 entitled to receive from the State, including the borrower's share of
19 the State income tax, to secure its obligations under a loan
20 agreement. The State Comptroller and the State Treasurer shall
21 cause any moneys withheld under such a pledge to be paid to, or
22 applied at the direction of the Administration.
23

24 (e) *Loan obligation cancelable only upon repayment*
25 *in full.* Each loan agreement shall contain a provision whereby the
26 borrower acknowledges and agrees that the borrower's loan
27 obligation is cancelable only upon repayment in full and that
28 neither the Administration, the Secretary, nor the Board is
29 authorized to forgive the repayment of all or any portion of the
30 loan, except for loans to disadvantaged communities, pursuant to
31 the federal Safe Drinking Water Act.
32

33 (f) *Default on loan obligation.* In the event of a default
34 on a loan obligation by a borrower other than a local
35 government, the Administration may place a lien against
36 property of the borrower securing the loan which, subject to the
37 tax liens of the federal, State, and local governments, shall have
38 the same priority and status as a lien of the State for unpaid taxes
39 under §§ 14-804 and 14-805 of the Tax-Property Article. The
40 Administration may exercise the same rights and powers in
41 enforcing such lien and collecting funds for the payment of
42 amounts in default under the loan obligation as the State may
43 exercise in collecting unpaid taxes under Title 14, Subtitle 8 of
44 the Tax-Property Article."

45 The Capital Budget includes the appropriation of \$63,000,000 to be borrowed from the
46 Administration in accordance with the MWQFA Act to pay a portion of the costs of Capital Project
47 No. S-6214 (Sewer Contingency Fund) which is specified in the County's Capital Budget for the
48 fiscal year ending June 30, 2009 and which is more particularly described in Appendix A to this

1 bond enabling law (the "Project") and to pay all related costs. The County is a "local government"
2 and the Project is a "wastewater facility", both as defined in the MWQFA Act.

3 **Now therefore,**

4 **Section 1. Be it enacted by the County Council of Howard County, Maryland,** That all
5 terms used herein with an initial capital letter and defined in the Recitals hereof shall have the
6 meanings given such terms therein, unless the context clearly indicates a contrary meaning.

7 **Section 2. Be it further enacted by the County Council of Howard County, Maryland,**
8 (a) That Howard County, Maryland (the "County") is hereby authorized and empowered to borrow,
9 on its full faith and credit, an amount not exceeding \$63,000,000 from the Administration and to
10 issue and sell one or more installment bonds (each, a "Bond") to the Administration, at one time or
11 from time to time within four years from the effective date of this Act, pursuant to and in accordance
12 with the Howard County Charter and the MWQFA Act, the proceeds thereof to be used for payment
13 of costs of the Project, as more particularly specified and described in Appendix A hereto and in the
14 County's Capital Budget for the fiscal year ending June 30, 2009, and for payment of all related
15 costs, including, without limitation, the costs incurred by the County in connection with the issuance
16 of the Bond or Bonds to the Administration, and the cost of planning, construction, improvements,
17 renovation, rehabilitation, equipping, engineering and architect's services, surveys, landscaping, site
18 development and land acquisition, to the extent permitted under the MWQFA Act.

19 (b) Each Bond shall constitute a "loan obligation" within the meaning of the
20 MWQFA Act.

21 (c) The County is further authorized to enter into a Loan Agreement with the
22 Administration (a "Loan Agreement") to effect and evidence each loan from the Administration.

23 **Section 3. Be it further enacted by the County Council of Howard County, Maryland,**
24 That, for each Bond issued under this Act, the County Council, by an ordinance or ordinances
25 adopted from time to time in accordance with Sections 606 and 618 of the Howard County Charter,
26 the MWQFA Act, and other applicable provisions of law, shall provide for (a) the issuance and sale

1 of such Bond to the Administration, (b) the designation, form, tenor, maximum principal amount
2 (and the formula for computing the final principal amount), denomination and maturity (not
3 exceeding 30 years), (c) the amortization schedule of such Bond (or the formula for computing such
4 schedule), (d) the interest rate (or the method of determining such rate) payable on such Bond, and
5 (e) the form and terms and conditions of the Loan Agreement.

6 **Section 4. Be it further enacted by the County Council of Howard County, Maryland,**

7 That for the purpose of paying the principal of and interest on the Bonds as the same shall become
8 payable, the County Council shall levy annually ad valorem taxes upon the assessable property in
9 Howard County sufficient, together with benefit assessments, ad valorem taxes levied upon
10 assessable property in the Metropolitan District and other available funds, to pay the principal of and
11 interest on the Bonds until the entire principal amount of the Bonds shall mature and be redeemed.

12 **Section 5. Be it further enacted by the County Council of Howard County, Maryland,**

13 That the County anticipates that a portion of the costs of the Project will be paid prior to the issuance
14 of the Bonds. The amount of such costs so paid will depend on various factors, including, without
15 limitation, the timing and speed of progress on the Project, the availability of other funds to pay such
16 costs on an interim basis, bond and money market conditions and compliance with federal and State
17 laws and regulations.

18 Accordingly, the County reasonably expects to reimburse costs of the Project (as described
19 herein) with proceeds of the Bonds, such Bonds to be issued by the County in the maximum
20 principal amount of \$63,000,000.

21 **Section 6. Be it further enacted by the County Council of Howard County, Maryland,**

22 That this Act shall take effect sixty-one (61) days after its enactment.

Sewer Project

Project Description	Amount to be Borrowed
S6214 SEWER CONTINGENCY FUND The fund is designed for use as a revenue source for transfers of appropriations when either construction costs are higher than originally estimated or engineering must be advanced from future years to the present fiscal year for critical sewer needs.	\$63,000,000